

# Fiscal Note

State of Alaska  
2019 Legislative Session

Bill Version:	CSHB 49(FIN)
Fiscal Note Number:	17
(H) Publish Date:	5/8/2019

Identifier: HB49CS(FIN)-DOC-IDO-05-06-19  
Title: CRIMES; SENTENCING;MENT.  
ILLNESS;EVIDENCE  
Sponsor: RLS BY REQUEST OF THE GOVERNOR  
Requester: (H)FIN

Department: Department of Corrections  
Appropriation: Population Management  
Allocation: Institution Director's Office  
OMB Component Number: 1381

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2020 Appropriation Requested	Included in Governor's FY2020 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2020	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>***</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

## Fund Source (Operating Only)

None							
<b>Total</b>	<b>***</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

## Positions

Full-time							
Part-time							
Temporary							

## Change in Revenues

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2019) cost:** 0.0 (separate supplemental appropriation required)

**Estimated CAPITAL (FY2020) cost:** 0.0 (separate capital appropriation required)

**Does the bill create or modify a new fund or account?** No  
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

## ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

## Why this fiscal note differs from previous version/comments:

Updated to reflect substantial changes in the CS. This fiscal note only discusses the estimated fiscal impact in FY2020 if this bill is enacted into law. Based on the 2.13.19 Governor's FY2020 request.

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Date: 05/06/19

**REPORTED OUT OF  
HFC 05/07/2019**

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2019 LEGISLATIVE SESSION

## Analysis

**This bill eliminates statutory good time. This has an extremely large impact on the department which it was not able to calculate in time for this fiscal note, therefore the department submits an indeterminate note. However, the department is confident in the cost for the rest of the fiscal note which is \$29,818.0.**

*A substantial portion of this legislation reverses changes in sentencing made by SB 91. The Department of Corrections use data from two time periods to project the impact of the legislation on prison population, CY2014 and CY2018. These data were selected because they provide the most current number of offenders (CY2018) and the most accurate length of stay data available (CY2014). CY2014 was used as the baseline data for SB 91.*

*The department calculated the increase in inmates per day as follows:*

*CY2014 length of stay – CY2018 length of stay = projected increase in length of stay*

*Increased length of stay x CY2018 offenders = increase in days of incarceration*

*Increased days of incarceration/365 = projected increase in number of inmates per day, per year.*

*Misconduct Involving a Controlled Substance (MICS) offenses are not calculated in this manner based on Department of Law's projections that reclassifying these offenses will result in an increase in prosecutions and convictions.*

The bill removes marriage as a defense to sexual assault except in cases where there is consent and the conduct is illegal due to the nature of the relationship, but for marriage. Over the last 10 years, the department had an average of 12 inmates each year under the sex offenses added to this section. The department cannot determine how often marriage was used as a defense in the past, but the department projects a small increase in the in number of inmates as a result of this change. In the first year the department projects 1.2 additional inmates.

The bill adds identification documents to fraudulent use of an access device. In CY2018 there were 14 inmates serving time for this crime. This may increase the prison population, but the change cannot be determined by the department.

This bill makes tampering with electronic monitoring (EM) equipment a crime. EM tampering is Escape 3 which has an average stay of 36.5 days. In CY2018 there were 110 instances of EM tampering. The department projects an additional 11.0 inmates per day for year 1.

This bill makes felons violating conditions of release (felon VCOR) a class A misdemeanor and modifies class A misdemeanor sentencing to "Not more than one year." Felon VCOR has a projected increased length of stay of 38.3 days; in CY2018 there were 883 offenders in this category. The department projects an additional 92.7 inmates per day for year 1.

This bill broadens language regarding terroristic threatening. In CY2018 there was one inmate for incarcerated for this offense. With the broadening of the statute there may be an increase in the prison population, but the department projects it will be able to absorb that increase.

This bill reverts misconduct involving a controlled substance offenses to be consistent with what they were in 2015. The department projects an increase in the number of inmates as a result of this change based on conviction counts and length of stay in CY2014. For felony A, felony B and felony C as well as misdemeanor B the department projects an increase in inmates. The department projects an additional 118.9 inmates per day for year 1.

This bill extends the period of time before a person must be taken before a judge or magistrate from 24 to 48 hours. The department does not have data that explicitly documents when a defendant has an appearance before a judge or magistrate. However, doubling the length of time allowed before this hearing is required to occur is likely to result in increasing the daily average inmate count and thus a modest increased cost for incarceration that the department is

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2019 LEGISLATIVE SESSION

BILL NO. CSHB49(FIN)

### Analysis

This bill changes the pretrial release and retention procedures. CY2018 saw a number of changes in time spent incarcerated: 1) Depending on the offense type, in CY2018 defendants spent between 1 and 47 fewer days incarcerated than they would have in CY2016 prior to SB91 and the creation of the Pretrial Enforcement Division (PED). 2) In CY2018 more defendants were released pretrial than in CY2016. And 3) In CY2018 defendants assigned to pretrial supervision were incarcerated an average of 5.91 fewer days than non-PED unsentenced defendants. The department projects that with this bill defendants will still be assigned to pretrial supervision, but not at the rate attained in CY2018. The department projects this bill will result in 4,350 pretrial defendants being incarcerated an average of 2.74 days longer which will result in an increase in both the number of incarcerated inmates and the duration of the pretrial incarceration. The department projects this will increase the daily offender population by 32.7 offenders in year 1.

This bill removes the caps on the length of time an offender may serve for a technical violation. The department assumed the number of technical violations and the length of stay for those violations will return to CY2016 levels (pre-SB91). These changes will add 640 violators and they will serve an additional 53.3 days. The department also projects this change will add 12.8 days to 2,446 violators. This will increase the daily population by 89.5 the first year.

This bill eliminates credit granted against a sentence of imprisonment for time spent on electronic monitoring (EM) for some offenses. The department assumes that all credit previous granted will now be served in a facility. In CY2018 2,050 individuals spent at least one day on EM. The department projects 363 defendants who had received credit for EM will spend an average of 36.6 days incarcerated. The department projects this will result in an increase in the daily average prison population of 35.5 inmates in year 1.

This bill increases the incarceration days for a second offense of driving with license suspended, cancelled, or revoked to 10 days. Over the last five years, there have been an average of 264 inmates for a second offense of driving with license suspended, cancelled, or revoked; this includes equivalent municipal offenses. The average length of stay was 2.45 days. Increasing the length of stay to 10 days for all offenders increases the average daily population by 5.5 inmates in year 1.

This bill increases the presumptive sentence ranges for A felonies:

1st time felony A has a projected increased length of stay of 245 days; in CY2018 there were 48 offenders in this category. The department projects no change in the daily average for year 1.

2nd time felony A has a projected increased length of stay of 245 days; in CY2018 there were 9 offenders in this category. The department projects no change in the daily average for year 1.

There are not enough 3<sup>rd</sup> time felony A offenders to make confident computations.

This bill increases the presumptive sentence ranges for B felonies:

1st time felony B has a projected increased length of stay of 245 days; in CY2018 there were 151 offenders in this category. The department projects no change in the daily average for year 1.

2nd time felony B has a projected increased length of stay of 245 days; in CY2018 there were 32 offenders in this category. The department projects no change in the daily average for year 1.

3rd time felony B has a projected increased length of stay of 245 days; in CY2018 there were 5 offenders in this category. The department projects no change in the daily average for year 1.

This bill increases the presumptive sentence ranges for class A misdemeanors. Class A misdemeanors have a projected

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STATE OF ALASKA  
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BILL NO. CSHB49(FIN)

### Analysis

This bill increases the presumptive sentence ranges for class B misdemeanors. Class B misdemeanors have a projected increased length of stay of 3.3 days; in CY2018 there were 606 offenders in this category. The department projects an additional 2.7 inmates per day for year 1.

This bill increases the incarceration days for a second offense of driving with license suspended, cancelled, or revoked to 10 days. Over the last five years, there have been an average of 264 inmates for a second offense of driving with license suspended, cancelled, or revoked; this includes equivalent municipal offenses. The average length of stay was 2.45 days. Increasing the length of stay to 10 days for all offenders increases the average daily population by 5.5 inmates in year 1.

This bill reduces the number of inmates eligible for discretionary parole. Offenders convicted of a class A felony or class B felony, a third time class C felony, and certain sex offenses will no longer be eligible for discretionary parole. The department projects that this will impact 30 inmates each year, adding an average of 1,000 days of incarceration for each inmate. In year one the department projects there will be 30 additional inmates.

This bill establishes contemporaneous two-way video conference as a possible appearance mode for some hearings types of hearings when available. The department currently has video conferencing equipment in all of its facilities.

This bill repeals the Pre-trial Services Division. In CY2018 there were 7,786 defendants who were released to the Pre-trial Services Division for supervision. Those defendants were incarcerated an average of 10.9 days. Defendants who were released to any other condition while awaiting trial (own recognizance, etc.) in CY2018 had an average length of stay of 24.7 days. Those individuals released to Pre-trial Services Division had a length of stay that was 13.9 days shorter. The department assumes in the absence of Pre-trial Services Division, all defendants previously released to Pre-trial Services Division will have the same length of stay as those who were not released to Pre-trial Services Division. The department projects there will be 296 additional inmates.

In total, the department projects that this bill increases the department's number of inmates by 850 the first year. This exceeds the department's current capacity. The current general capacity of the department's institutions is 4,664 inmates. The department averaged 4,314 inmates during CY2018 thus leaving the system with additional capacity for 350 additional inmates.

The department projects the need for additional capacity for 500 inmates in year 1. If the department's projections are correct, it will need to reopen the Palmer Correctional Center (PCC) to accommodate the increased population. PCC has a general capacity of 503 inmates. The \$6.0 million costs associated with re-opening PCC are one-time expenses for preparation of the facility and replacement of equipment.

Because the system has capacity for 350 additional inmates, costs for those inmates are calculated at the marginal cost of \$44.98 per day for a cost of \$5,746.2 the first year. Costs for inmates that exceed the current capacity of the system are calculated at the full cost of care of \$168.74 per inmate per day. In the first year the cost for the 500 inmates that exceed existing capacity is \$30,798.0. Thus total increased costs for 850 additional inmates in year one is \$36,541.2.

Health care commodities and services costs were subtracted from that total because they are reflected in OMB component number 2952. Health care costs for those inmates above existing capacity are projected at \$6,723.3 in year one.

The projected costs in the Institution Director's Office in year one are: \$36,541.2 (new inmates) - \$6,723.3 (health care) = \$29,818.0.